

**THESE MINUTES WILL BE SUBJECT TO RATIFICATION AT THE NEXT
MEETING OF THE DEPCO ASSET REVIEW COMMITTEE**

DEPCO Asset Review Committee

March 18, 2005

Minutes of the Meeting

A DEPCO Asset Review Committee meeting was held on Friday, March 18, 2005 in the Department of Administration Building, Conference Room A, 2nd floor, One Capitol Hill, Providence.

At 10:00 a.m. Rosemary Booth Gallogly called the meeting to order. Committee members present: Rosemary Booth Gallogly, Lawrence C. Franklin and Gary Clark.

The first item on the agenda was the approval of the minutes from the committee meeting of February 15, 2005. Ms. Gallogly confirmed that the committee members had received a copy of the minutes and had an opportunity to review them.

A motion was made by Mr. Gary Clark to approve the minutes as presented, seconded by Mr. Larry Franklin and approved unanimously. The minutes of the February 15th meeting were approved.

The second item on the agenda was the approval of the minutes of the February 21st meeting. A motion was made by Mr. Gary Clark to approve the minutes as presented, seconded by Mr. Larry Franklin, and approved unanimously. The minutes dated February 21, 2005 were approved.

The next agenda item was the review and consideration for approval of the proposed amendment for the settlement agreement dated December 21, 2000 between Wm. Associates, L.P., Woodland Manor I Associates, L.P., Woodland Investment Partners, GRA Associates, Mapleroot Development Corporation, Pasquale B. Confreda, John Assalone, Sr., Domenic Delvecchio, Antonio L. Giordano, The Estate of Robert A. Rocchio (collectively, the “Obligors”) and Woodland Manor III Associates, L.P. and DEPCO, as amended from time to time thereafter.

Ms. Gallogly reminded the committee that this item was discussed at the February 15th meeting and asked if there were any questions from the committee.

Mr. Larry Franklin asked whether Woodland Manor was entitled to the \$6.7 million judgment against DEM.

Mr. Dolan stated that Woodland Manor III would be entitled to recover that amount from the State absent the current settlement proposal. Prior to the settlement agreement, Woodland Manor III was not

obligated to the State in any way on any of the loans that are the subject of the State's judgment against the loan obligors. During the course of the negotiations of the amendments to the settlement agreement, the State obtained an agreement that Woodland Manor III would bind itself to the settlement agreement for the sole and limited purpose of the State being able to set off the loan obligations against any award that might be forthcoming in favor of Woodland Manor III. At the time there had not yet been a judgment entered against Woodland Manor III. The State wanted the opportunity to participate in any recovery against the State so that it could effectively set off any such recovery against the loan obligations. The right of the State to seek that set off was built into the amendment, and the third amendment had a specific breakdown of how the proceeds of any judgment against DEM would be allocated subject to the right of the borrower to argue that the set off shouldn't occur and that the attorney's lien in favor of the lawyers who are representing Woodland Manor III could be asserted. The State wanted to reach a resolution that would resolve all those issues. If it didn't, we could resolve that judicially. This settlement that is now currently proposed, proposes a complete and full application of the amounts of the Woodland Manor III judgment against the State against the loan obligations without a question, without any need for judicial resolution, without any entitlement on the part of the lawyers representing Woodland Manor III, and any funds from that judgment.

Mr. Larry Franklin stated that in essence, even though when you sign

this settlement agreement they didn't make Woodland Manor III an obligor, they didn't give up their legal defenses.

Mr. Dolan stated that Mr. Franklin was correct. The issue wasn't foreclosed, it remained open. This settlement would foreclose it for all time.

Mr. Gary Clark stated that with regard to the potential attorneys' fees in the DEM suit, his understanding is that the fees would then become the sole obligation of Giordano. Mr. Clark questioned whether the attorney needs to be a signatory to this agreement.

Mr. Dolan responded "No." There would be a release forthcoming from Woodland Manor III and from the firm releasing the State so that there would be no question that when this settlement is closed, the State will have no further exposure to anybody.

Ms. Rosemary Booth Gallogly wanted to follow up on the questions that were asked at the February 15th meeting with respect to the financial disclosure of both Giordano and the other parties involved. Ms. Rosemary Booth Gallogly asked Mr. Dolan to state what the resolution provides for.

Mr. Dolan stated that the resolution contemplates that with respect to Mr. Giordano, he will provide an updated financial statement of a type that we have utilized in the past, to confirm that there has been no

material changes in his financial position that would cause the committee to reconsider its decision. With respect to the other individuals' situations, two of whom have passed away and two of them are elderly gentlemen, the State will seek a statement that there has been no material change in their prior financial disclosure. In addition to that, the original settlement agreement has a tickler provision in it which still stands and is in force. To the extent there has been any material omission or misrepresentation in any of the financial disclosures, the State would be able to seek recovery of the full amounts that are owed less any amounts paid. That is a standard provision in all agreements and still is in place and will still be in force in this one.

Ms. Rosemary Booth Gallogly asked Mr. Dolan to go through the timing since we have had settlement agreements previously and this is the Fifth Amendment.

Mr. Dolan responded that the current proposal requires that the parties sign a formal agreement within seven working days after this committee's adoption. By no later than March 28th, there will be a signed agreement. The resolution also requires that the payment amount and the exchange of the leases take place no later than April 1, 2005.

Mr. Gary Clark asked whether payment of the additional amounts owed would also be made on or about the same date.

Mr. Dolan stated that there are certain taxes that are owed to the State on one of Mr. Giordano's other assets, Mount St. Francis, and the resolution specifically provides for the satisfaction in full on principal, interest, and penalties that are outstanding on that claim.

Ms. Rosemary Booth Gallogly asked if there were any public comments. Hearing no public comments, Ms. Rosemary Booth Gallogly asked Susan Rodriguez to read the full resolution for consideration by the Board Members into the record.

**Resolution Regarding W.M. Associates, L.P. et al
Fifth Amendment to Agreement**

WHEREAS, on October 15, 1999, DEPCO obtained a Judgment (the "Judgment") in the Rhode Island Superior Court for Washington County against WM ASSOCIATES, L.P., WOODLAND MANOR I ASSOCIATES, L.P., WOODLAND INVESTMENT PARTNERS, GRA ASSOCIATES, MAPLEROOT DEVELOPMENT CORPORATION, PASQUALE V. CONFREDA, the ESTATE OF JOHN ASSALONE, SR., DOMENIC DELVECCIHIO, ANTONIO L. GIORDANO, the ESTATE OF ROBERT A. ROCCHIO (collectively "Obligors"), and WOODLAND MANOR III ASSOCIATES, L.P ("WM III") with respect to amounts due under three separate loans, including a 1987 loan from Marquette Credit Union to WM Associates (the "WM Loan"), a January 1987 loan

from Marquette Credit Union to GRA Associates (the “GRA Loan”), and an April 1989 loan from Marquette Credit Union to Mapleroot Development Corporation (the “Mapleroot Loan”); and

WHEREAS, the Judgment as entered in respect of the WM Loan is \$4,292,868.34 against, jointly and severally, WM Associates, Woodland Manor I Associates, L.P., Woodland Investment Partners, John Assalone, Sr., Pasquale B. Confreda, Dominic Delvecchio, Antonio L. Giordano and the Estate of Robert A. Rocchio; and

WHEREAS, the Judgment entered in respect of the GRA Loan is \$3,242,923.59 against, jointly and severally, GRA Associates, John Assalone Sr., Antonio L. Giordano and the Estate of Robert A. Rocchio; and

WHEREAS, the Judgment entered in respect to the Mapleroot Loan is \$2,170,096.66 against jointly and severally, Mapleroot Development Corporation, John A. Assalone, Sr., Pasquale B. Confreda, and the Estate of Robert A. Rocchio (The “Mapleroot Judgment Obligation”); and

WHEREAS, on or about December 14, 2000, Rhode Island Depositors Economic Protection Corporation (“DEPCO”), the Obligors and WM III entered into a Settlement Agreement (the “Agreement”) in respect to certain loans made to certain of the Obligors and certain judgments obtained thereon by DEPCO against certain of the Obligors; and

WHEREAS, the Agreement provided for, inter alia, certain payments to be made by the Obligors to DEPCO including without limitation a payment of One Million Dollars (\$1,000,000.) on or before December 14, 2001, and an additional payment of Two Million Dollars (\$2,000,000.00) to be made on or before December 14, 2002; and

WHEREAS, on or about March 2002, DEPCO, the Obligors and WM III entered into a First Amendment to Agreement; and

WHEREAS, the First Amendment required the Obligors to pay the sum of Two Million Dollars (\$2,000,000.00) on or before July 31, 2002, and an additional One Million Dollars (\$1,000,000.00) payment on or before December 14, 2002, such that DEPCO would receive, in addition to other payments required under the Agreement, the sum of Three Million Dollars (\$3,000,000.00) on or before December 14, 2002 as originally contemplated by the Agreement; and

WHEREAS, payments to be made to DEPCO were to come from the sale and/or refinancing of that certain 150 unit apartment building located in Coventry, Rhode Island ("Woodland Manor I"), and from WM II and WM III; and

WEREAS, the Obligors advised DEPCO that, effective October 1, 2002, the Secretary of the United States Department of Housing and Urban Development (the "Secretary"), the funding source of the

proposed sales and/or refinancings, would lower the insurance premium rates on mortgage loans insured by the Secretary and that, as a result, the Obligors would be able to generate higher net proceeds from the sale or refinancing of the referenced projects; and

WHEREAS, the Obligors then advised DEPCO that the closing under the new insurance premium rates would take place sometime after October 1, 2002, but prior to December 14, 2002; and

WHEREAS, on or about September 2002, DEPCO, the Obligors and WM III entered into a Second Amendment to Agreement, extending the time through December 14, 2002 to make the Two Million Dollars (\$2,000,000.00) payment scheduled for July 31, 2002; and

WHEREAS, on or about December 2002, DEPCO, the Obligors and WM III entered into a Third Amendment to Agreement, providing among other things, a ninety (90) day extension of time, or through March 14, 2003, to make the payments then required of them under paragraphs 6(c)(iii) and (iv) of the Agreement as Amended; and

WHEREAS, the Third Amendment called for certain of the Obligors to pledge and assign certain of their individual interests in partnerships that owned real property and improvements that were subject to mortgages insured by United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, as a condition of the pledges and assignments contemplated by the Third Amendment, HUD required that certain provisions be inserted into the Third Amendment; and

WHEREAS, in connection with the Third Amendment, the parties agreed to the insertion of the provisions requested by HUD, and specifically acknowledged that the pledges and the assignments were subject to HUD's prevailing rules and regulations; and

WHEREAS, subsequent to the Third Amendment to Agreement, DEPCO assigned its rights, title and interest in the Agreement, the Judgment, and the Collateral as defined in the Agreement as Amended to the State and the State accepted such assignment; and

WHEREAS, on or about June 5, 2003, WM III obtained a money judgment against the State of Rhode Island and Jan H. Reitsma, in his capacity as Director of the Department of Environmental Management, in the Superior Court for Providence County (C.A. No. 89-2447) (hereinafter the "DEM Judgment"); and

WHEREAS, Obligors have requested that the State refrain from exercising its rights and remedies pursuant to paragraph 17 of the Agreement as amended; and

WHEREAS, on or about the 17th day of February, 2004, the State and the Obligors and WM III entered into the Fourth Amendment to

Agreement wherein the State agreed to refrain from exercising its rights and remedies pursuant to paragraph 17 of the Agreement as Amended in exchange for certain acknowledgments and amendments to the Agreement requiring that, in addition to payments already made under the Agreement, a further payment of Three Million Dollars (\$3,000,000.00) be made no later than May 31, 2004 in order to extinguish the Settlement Obligation; and

WHEREAS, in the event the payment of \$3,000,000.00 were not made on or before May 31, 2004, Obligors right to satisfy the Judgment by the payment of the Settlement Obligation would automatically be extinguished and rendered null, void and of no further force or effect; and

WHEREAS, the Obligors pledged a Limited Mortgage by Evergreen Estates, LLC ("Evergreen") supported by the proceeds of sale of that certain property known as Woodland Manor I, 1520 Nooseneck Hill Road, Coventry, Rhode Island ("Woodland Manor I"); and

WHEREAS, the payment of Three Million Dollars (\$3,000,000.00) has not been made and Obligors desire settle the outstanding Judgment by making a payment of Three Million Dollars by April 1, 2005 and providing the State with the two Releases described in paragraph 6(a) and 6(b) in the Fourth Amendment to Agreement.

BE IT RESOLVED, that the Tax Administrator or his designee be

authorized to enter into a Fifth Amendment to the Settlement Agreement dated December 14, 2000 reflecting inter alia the following terms and conditions and such other terms and conditions as may be recommended by counsel:

1. Obligations. Except as expressly modified herein, the terms and conditions of the Agreement as amended in the First, Second, Third and Fourth Amendments to Agreement, the Obligors' representations, acknowledgements, duties and obligations there under, and the State's rights, remedies and obligations there under remain in full force and effect. All terms which are defined in the Agreement shall have the same meaning when used in the Fifth Amendment (unless a contrary intent is clearly indicated from the context herein).

2. Acknowledgement of Default. The Obligors each acknowledge that they are in default under the Agreement. The State agrees to refrain from exercising its rights pursuant to paragraph 17 of the Agreement, provided the terms and conditions of the Agreement as amended are achieved and maintained.

3. Amendment of Payment Obligations

a. The provisions of paragraph 3 of the Fourth Amendment to Agreement are deleted in their entirety. The provisions of the Fifth

Amendment shall govern Obligor's rights to satisfy the Judgment by making payments as required therein.

b. So long as no Event of Default shall have occurred under the Agreement, as amended, Obligors may satisfy their obligations under the Judgment by making an additional payment of Three Million Dollars (\$3,000,000.00) in immediately available funds on or before April 1, 2005.

c. At the closing of this Fifth Amendment to the Settlement Agreement dated December 14, 2000, the Obligors shall provide the two Releases described in paragraph 6(a) and 6(b) in the Fourth Amendment to Agreement.

d. At the closing of this Fifth Amendment to the settlement agreement the obligation for taxes, interest and penalties that may be owed to the State by Mount St. Francis Health Center and/or Antonio L. Giordano, Responsible Officer shall be satisfied in full. Upon receipt of the amounts due, any related lien shall be released.

4. Financial Disclosure At the signing of this Fifth Amendment to Agreement, Mr. Antonio L. Giordano shall provide an up-date of his financial condition in a form comparable to that disclosure provided at the time of the Agreement (December 14, 2000). In addition, the other Obligors shall provide an affidavit that there has been no material change in their financial condition since the date of the Agreement.

5. The Fifth Amendment to Agreement shall be executed by all parties

no later than seven (7) days from the adoption of this resolution by the DEPCO Asset Review Committee of the Department of Administration to confirm that the proposed terms are acceptable.

Ms. Rosemary Booth Gallogly asked if there was a motion regarding the resolution submitted by counsel. A motion to approve the resolution was made by Mr. Gary Clark, seconded by Mr. Larry Franklin, and approved unanimously. The resolution as submitted by counsel was approved.

Ms. Rosemary Booth Gallogly stated that future meetings of this committee would be posted in accordance with the public meeting laws.

Ms. Rosemary Booth Gallogly asked if there was a motion to adjourn. A motion was been made by Mr. Gary Clark, seconded by Mr. Larry Franklin, and approved unanimously.

The meeting adjourned at 10:24 a.m.